REMARKS

Claims 1 – 28 were pending in the application. Claims 1, 3, 5, 6, 7, 9, 11 – 16, 18, 20 - 22, 24, and 26 - 28 have been amended. Accordingly, claims 1 - 28 are presented for reconsideration and reexamination in view of the following remarks.

In the Office Action, the disclosure was objected to because it contains embedded hyperlink and/or other form of browser-executable code; a requirement was made for a substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b); claims 1 – 28 were rejected under 35 U.S.C. § 112, 2nd paragraph as being indefinite; claims 1 - 28 were rejected under 35 U.S.C. § 102 (b) as being anticipated by U.S. Patent No. 5,815,516 to Aaker et al.; and claims 14 and 15 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

By this Amendment, the specification has been amended to overcome the objections by correcting minor informalities; claims 3, 5, 9, 11, 18, 20, 24, and 26 have been amended to overcome the rejections by correcting indefiniteness; and claims 1, 6, 7, 12 – 16, 21, 22, 27, and 28 have been amended to overcome the anticipation and non-statutory rejections. Support for these amendments can be found for example, paragraphs [0005], [0011], [0012], [0062], [0068], [0069], [0096], and others, and in figures 6 – 8 and 12 – 14, of the pending application as published.

It is therefore respectfully submitted that the above amendments introduce no new matter within the meaning of 35 U.S.C. § 132.

Objection to the disclosure

The disclosure was objected to because it contains embedded hyperlink and/or other form of browser-executable code.

In response, the published paragraph [0006] of the disclosure has been amended to remove the objectionable hyperlink and/or other form of browser-executable code. Accordingly, Applicant respectfully requests that the objection be withdrawn.

Requirement for a substitute specification

The Examiner made a requirement for a substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) because the specification as filed appears to be a literal machine translation of the original Japanese document.

In response, Applicant respectfully traverses the requirement because the number or nature of the amendments in proper idiomatic English does not render it difficult to consider the application, or to arrange the papers for printing or copying, in compliance 35 CFR 1.52(a) and (b). Instead, the changes to the specification are being submitted as amendments. Further, Applicant respectfully requests the Examiner to indicate where examples of improper idiomatic English can be found. Applicant submits that one of ordinary skill in the art can easily understand the specification and the technology. Accordingly, Applicant respectfully requests that the requirement be withdrawn.

Rejection under 35 U.S.C. § 112, 2nd paragraph

Claims 1 – 28 were rejected as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the claims were found to be generally narrative and indefinite, failing to conform with current U.S. practice. In addition, they appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. The terms "higher," "highest," and "lower," in claims 3, 5, 9, 11, 18, 20, 24, and 26 are relative terms which render the claims indefinite.

Reconsideration and withdrawal of the rejection are respectfully requested.

The following is a quotation of the second paragraph of **35 U.S.C. 112**:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Applicant respectfully traverses the rejection. Applicant respectfully requests the Examiner to indicate where examples of improper idiomatic English can be found. Applicant submits that one of ordinary skill in the art can easily understand the claims and the technology. Further, Applicant submits that Figures 6 - 8, 12 – 14 and the accompanying descriptions support the claim language. As can be seen in Figure 6 of the drawings, for example, node 'a' has a "higher" level of hierarchy than node 'b' and has the "highest" level of hierarchy relative to all the other nodes 'd,' 'e,' 'f,'

However, to expedite prosecution of this application, claims 3, 5, 9, 11, 18, 20, 24, and 26 have been amended to further define "high..." and "low..." which are general terms, in terms of "hierarchy." "High" and "low" were merely used in the claims to denote either extension

upward/downward or position or height. Further, the independent claims have been amended for clarity by inserting --data-- between "fragment" and "configuration" along with other minor entries.

It is respectfully submitted that all of the claims particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Accordingly, Applicant respectfully requests that the rejection of claims 1 - 28 under 35 U.S.C. § 112, 2nd paragraph be withdrawn.

Rejection under 35 U.S.C. § 102 (b)

The Examiner rejected claims 1 – 28 as being anticipated by Aaker et al.

Reconsideration and withdrawal of the rejection are respectfully requested.

For a reference to anticipate an invention under 35 U.S.C. 102 (b) the reference must have been patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States. The reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present.

It is respectfully submitted that Aaker et al. fails to teach each and every element of the claims, as amended.

Independent claims 1, 7, 12, 14 - 16, 22, 27, and 28 have been amended to include the language "…constituting a structured data having a tree structure described in an extensible markup language…"

Aaker et al. discloses a method and apparatus for producing transmission control protocol checksums using internet protocol fragmentation. In the method in Aaker et al. packet data is received to be transmitted and a first internet protocol data fragment is prepared. The goal in Aaker et al. is to produce transmission control protocol (TCP) checksums that enables transmission of the checksum at the end of the data packet while maintaining the conventional internet datagram structure. It is simple to implement without requiring architectural change or modification to the internet protocol. *See* "Description of the Prior Art."

In contrast, the plurality of fragment data recited in the claims constitutes a structured data having a tree structure described in an extensible markup language (XML). Therefore, the receiving side can actively acquire or concatenate a part or all of the fragments of structured data as necessary or determine the time at which fragments are to be acquired or concatenated. The cited reference fails to teach or suggest this feature. Instead the fragment data in Aaker et al. constitutes packet data.

Accordingly it is submitted that claims 1 - 28 define over the cited reference, and should be allowed. Applicant respectfully requests that the rejection of claims under 35 U.S.C. § 102 (b) be withdrawn.

Rejection under 35 U.S.C. § 101

Claims 14 and 15 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Reconsideration and withdrawal are respectfully requested.

35 U.S.C. § 101 reads: Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

In response, claims 14 and 15 have been amended to recite features regarding the program being embedded on a computer readable medium. Accordingly, Applicant respectfully requests that the rejection be withdrawn.
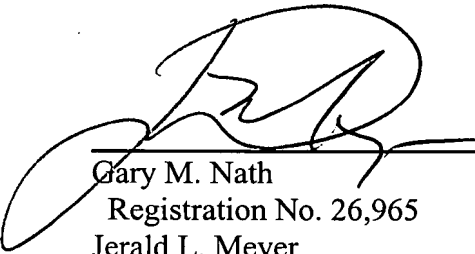
CONCLUSION

In light of the foregoing, Applicant submits that the application is now in condition for allowance. If the Examiner believes the application is not in condition for allowance, Applicant respectfully request that the Examiner call the undersigned attorney.

Respectfully submitted,
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